Court No. 551
(266306)

17.12.2025
(AD 20)

(S. Banerjee)

WPA 16234 of 2025

Smt. Sushila Gupta
Vs.
Union of India & Ors.

Mr. Anujit Mookherji
Mr. Vinayak Chaturvedi
...for the petitioner
Mr. Soumen Bhattacharjee
Mr. Ankan Das
Ms. Shradhya Ghosh
...for the respondents

Affidavit of service filed in Court today, is taken on record.

This writ petition mounts challenge to an assessment order dated March 27, 2025 passed in respect of an assessment year 2016-17, inter alia on the ground that the assessment proceeding has been initiated against a dead person. It is submitted by the learned advocate appearing for the petitioner that Govind Sahai Gupta (hereafter "the original assessee") in whose name the reassessment proceeding has been initiated and concluded, breathed his last on June 29, 2018. It is further submitted that after the death of the original assessee, reassessment proceedings were initiated by issuing a notice under Section 148 of the Income Tax Act, 1961 for reassessing his income in respect of the assessment year 2016-17. In response to the said notice, a letter dated March 30, 2024 was written to the relevant Income Tax Officer informing the said officer about the death of the assessee and also putting the said officer on notice that assessment proceedings in respect of the original assessee for the assessment year 2017-18 and assessment year 2019-20 had been dropped based on the information that the original assessee had died.

Attention of this Court is also drawn to the order-sheet details downloaded from the relevant portal of the revenue authorities (at page 21 of the writ petition) to demonstrate that the letter dated March 30, 2024 addressed to relevant Income Tax Officer was taken note of and it was recorded that the original assessee had died on June 29, 2018.

It is then submitted that despite the situation being such as aforesaid, assessment order under Section 147 read with Sections 144 and 144B of the said Act of 1961 has been passed on March 27, 2025 in the name of a deceased person, i.e., Govind Sahai Gupta. It is submitted that the entire assessment proceeding is, therefore, non-est.

Mr. Bhattacharjee, learned advocate appearing for the respondent revenue authorities submits that although a letter dated March 30, 2024 appears to have been written to the revenue authorities intimating them about the death of the original assessee, yet the same would not suffice to discharge a legal representative of the statutory obligations that the legal representative has in terms of Section 159 of the said Act of 1961. It is submitted that it was incumbent on the authorized representatives or the author of the letter dated March 30, 2024 to inform the revenue authorities the details of the legal representatives of the deceased assessee so that the revenue authorities could take steps in accordance with law against the legal representatives of the deceased assessee in terms of Section 159 of the said Act of 1961. Mr. Bhattacharjee also invites attention of this Court to an unreported decision of this Court dated November 18, 2025 in the case of *Kripa Shankar Mahawar –Vs.- The Principal Chief Commissioenr of Income Tax-1, Room No. 6, Kolkata & Ors.* (WPO 408 of 2025 decided on November 18, 2025).

Heard learned advocates appearing for the respective parties and considered the material on record.

It is not in dispute that at the time when the notice under Section 148 of the said Act of 1961 had been issued for initiating reassessment proceedings against Govind Sahai Gupta (since deceased), the said person was no more. In such view of the matter, the proceeding itself was initiated against a dead person. It is also not in dispute that at the time when the notice under Section 148 of the said Act was issued, the revenue authorities had no information as regards the death of the said person and that the revenue authorities were put on notice only on March 30, 2024 subsequent to the issuance of the said notice under Section 148 of the said Act of 1961.

In such view of the matter, while the Income Tax Authorities cannot be faulted for having issued the said notice under Section 148 of the said Act of 1961 in the name of Govind Sahai Gupta (since deceased), yet, at the same time, the said authorities cannot also be said to have acted in accordance with law when they continued with the same reassessment proceeding without taking corrective measures even upon it being brought to their notice that the original assessee Govind Sahai Gupta had already expired.

On such ground alone, the order impugned dated March 27, 2025 is set aside. Since the preceding reopening notice under Section 148 of the said Act of 1961 dated April 12, 2023 had also been issued against a dead person, the said notice is also set aside.

However, it is clarified that this order shall not prevent the respondent Income Tax authorities from reinitiating the reassessment proceedings in accordance with law by issuing fresh notice under Section 148 of the said Act of 1961 upon observing the statutory formalities prior to issuance thereof to the legal representatives of the deceased assessee. The petitioner shall remain obliged to furnish to the respondent Income Tax authorities the names of the other legal representatives of the deceased assessee, if any, upon the department writing to the petitioner and seeking information about the same.

It is made clear that in case the petitioner does not respond to the request of the respondent authorities for furnishing names of the legal representatives of the deceased assessee, the revenue authorities shall be free to proceed against the petitioner alone treating the petitioner to be the sole legal representative of the assessee and in such case, the proceeding shall not be liable to be challenged on the ground of non-impleadment of all the legal representatives of the deceased assessee.

WPA 16234 of 2025 stands disposed of with the above observations. No costs.

(Om Narayan Rai, J.)